MINUTES FOR THE COURT OF APPEAL STATE OF CALIFORNIA SECOND APPELLATE DISTRICT

January 26, 2010

DIVISION ONE

Court convened at 9:00 a.m.

Present: Mallano, P.J., Rothschild, J., Chaney, J., Johnson, J. and C. Hon, Deputy Clerk.

Each of the following:

B209278 People v. Majors

B210425 People v. Lee

B210435 People v. J.L.; P.M., & K.L.

B211236 People v. Hill

B211456 People v. Jones

B211683 People v. Armienta & Alfargo

B212452 People v. Menjivar

B212579 People v. Hernandez

B213013 People v. Gomez

B214420 People v. Blanco

B215420 People v. J.R.

B216227 DCFS v. R.S.

B217515 DCFS v. M.J.

B220382 T.T. v. SCLA (DCFS)

B209232 People v. Nevarez

Argument waived, cause submitted.

B214001 Payne

v.

Young

Matter is continued to January 27, 2010.

DIVISION ONE (continued)

B214479 In re Jesus Enrique Padilla on Habeas Corpus.

Matter is continued to February 23, 2010.

B210909 The People

v. King

Matter ordered off calendar.

B218578 Eulloqui

v.

Superior Court, Los Angeles County

(The People et al., r.p.i.)

Merits:

Argued by Marilee Marshall for petitioner and by Jess J. Gonzalez, Deputy City Attorney for real parties in interest. Cause submitted.

B207315 Enayati

V.

Enayati, et al.

Merits:

Argued by Edward A. Hoffman for appellant and Ehsan Afaghi appears for respondents. Cause submitted.

B202253 Henriks

v.

Kobashigawa

Merits:

Argued by Andrew N. Chang for appellant and by Maria A. Grover for respondent. Cause submitted.

DIVISION ONE (continued)

B209979 Lukather

v.

General Motors Corporation

Merits:

Argued by David N. Ruben for appellant and by Lawrence J. Hutchens for respondent. Cause submitted.

B211653 Faulkner

v.

Victim Compensation & Government Claims Board

Merits:

Argued by Ellen H. Ellison for appellant and by Michael P. Farrell, Deputy Attorney General for respondent. Cause submitted.

Mallano, P.J., leaves the bench.

B211757 Mnaskanian

v.

21st Century Insurance

Merits:

Argued by Nancy P. Doumanian for appellant and by George W. Abele for respondent. Cause submitted.

B212932 Harrison-Van Horn, Inc.

V.

Charles Hill Agency, et al.

Merits:

Argued by Michael L. Reino for appellant and by Robert Cooper for respondents. Cause submitted.

DIVISION ONE (continued)

B212206 People

v.

Ventura and Cabrera

Merits:

Argued by Tracy Dressner for appellant Cabrera, by John Fu for appellant Ventura and by Lance Winters, Deputy Attorney General for respondent. Cause submitted.

Court adjourned.

DIVISION THREE

B203152 People (Not for Publication)

B203209 v.

Toyre Tempson, et al.

The judgments are affirmed in part and reversed in part. Despite the fact there was sufficient evidence to sustain Rowland's conviction for felony false imprisonment, it must be reversed because the trial court neglected to instruct the jury on misdemeanor false imprisonment. The 15-year minimum parole eligibility terms imposed on the attempted murder convictions for Tempson, Morris and Brown are stricken. All defendants are entitled to one additional day of presentence custody credit. All of the other convictions and sentences are affirmed. The trial court is directed to prepare and forward amended abstracts of judgment to the Department of Corrections and Rehabilitation.

Klein, P.J.

We concur: Kitching, J.

Aldrich, J.

DIVISION THREE (continued)

B208011 People (Not for Publication)

v.

Cesar Cabrera

The judgment is modified by (1) striking the Penal Code section 12022.53, subdivision (d) enhancement as to each of appellant's three convictions for attempted voluntary manslaughter, and (2) staying execution of sentence on each of said three convictions, such stay then to become permanent, and, as modified, the judgment is affirmed. The trial court is directed to forward to the Department of Corrections an amended abstract of judgment reflecting the above modifications.

Kitching, J.

We concur: Klein, P.J.

Croskey, J.

B212055 People (Not for Publication)

v.

Jeffrey Martin

The abstract of judgment is modified to reflect that defendant and appellant Jeffrey Martin is entitled to 824 days of presentence custody credits. The clerk of the superior court is directed to modify the abstract of judgment and to forward the modified abstract to the Department of Corrections. The judgment is otherwise affirmed as modified.

Aldrich, J.

We concur: Klein, P.J.

Croskey, J.

DIVISION THREE (continued)

B210752 People (Not for Publication)

v.

Xavier H.

The matter is remanded so that the juvenile court can comply with Welfare and Institutions Code section 702. The judgment is otherwise affirmed.

Aldrich, J.

We concur: Croskey, Acting P.J.

Kitching, J.

B214261 People (Not for Publication)

v.

Xavier H.

The motion to augment the record on appeal is granted. The judgment is modified to strike condition of probation No. 7, and the judgment is otherwise affirmed. The matter is remanded so that the juvenile court can comply with Welfare and Institutions Code section 702.

Aldrich, J.

We concur: Croskey, Acting P.J.

Kitching, J.

B215676 Los Angeles County, D.C.F.S. (Not for Publication)

V. P.C

P.C.

The judgment is affirmed.

Kitching, J.

We concur: Croskey, Acting P.J.

Aldrich, J.

DIVISION THREE (continued)

B207481 Perrymon

v.

Bullis, et al.

Filed order modifying opinion. (Change in judgment)

DIVISION FOUR

B189049 People (Not for Publication)

v.

Medina, et al.

The judgment is affirmed.

Suzukawa, J.

We concur: Willhite, Acting P.J.

Manella, J.

B211558 People (Certified for Publication)

v. Brown

210 1111

The appeal is dismissed.

Epstein, P.J.

We concur: Willhite, J.

Manella, J.

DIVISION FOUR (continued)

B220163 Manuel C. (Certified for Publication)

v.

Superior Court, Los Angeles County (Los Angeles County Department of Children and Family Services, r.p.i.)

Let a peremptory writ of mandate issue, directing the juvenile court to vacate its order denying the peremptory challenge and to enter a new order accepting the peremptory challenge. The alternative writ is discharged, and the order staying proceedings in the juvenile court is vacated.

Epstein, P.J.

We concur: Willhite, J. Suzukawa, J.

B217634 California Public Utilities Commission (Certified for Publication)

v.

Superior Court, Los Angeles County (Millian et al., r.p.i.)

Let a perempltory writ of mandate issue compelling respondent court to set aside its order of June 12, 2009 denying petitioner California Public Utilities Commission's motion for summary judgment and to enter an order granting summary adjudication of the third, fourth and fifth causes f action to the extent that they alleg that the PUC owed a duty under sections 830, subdivision (c) and 835 because it controlled the railroad crossing and denying the PUC's motion in all other respects. Petitioner is to recover its costs in this proceeding. (Cal. Rules of Court, rule 8.493(a)(1)(A).)

Willhite, Acting P.J.

We concur: Manella, J.

Suzukawa, J.

DIVISION FOUR (continued)

B211847 En Pointe Technologies, Inc. (Not for Publication)

v.

Johns et al.

The order denying the motion to compel arbitration is affirmed.

Respondents to have their costs on appeal.

Epstein, P.J.

We concur: Manella, J.

Suzukawa, J.

B207866 Fitzpatrick (Not for Publication)

V.

Media News Group, Inc., et al.

The judgment is affirmed. Respondents are awarded their costs on appeal.

Manella, J.

We concur: Willhite, Acting P.J.

Suzukawa, J.

DIVISION FIVE

B211501 Jeng-Cheng Ho, et al. (Certified for Publication)

v.

Shih-Ming Hsieah, et al.

The judgment is reversed. Appellant(s) to recover costs.

Kriegler, J.

We concur: Armstrong, Acting P.J.

Mosk, J.

DIVISION FIVE (continued)

B214563 People (Not for Publication)

v.

Martel Leroy Anderson

The judgment is affirmed.

Armstrong, Acting P.J.

We concur: Mosk, J.

Kriegler, J.

B215299 People (Not for Publication)

v. T.V.

The judgment is affirmed.

Armstrong, J.

We concur: Turner, P.J.

Mosk, J.

DIVISION SIX

B217795 People (Not for Publication)

v.

Sam Duron

The judgment (order of committment) is reversed.

Perren, J.

We concur: Gilbert, P.J.

Coffee, J.

DIVISION SIX (continued)

B215125 Robert Burke (Not for Publication)

v.

Santa Barbara Police Department, et al.

The judgment is affirmed. Respondent(s) to recover costs.

Yegan, J.

We concur: Gilbert, P.J.

Coffee, J.

B212445 People (Not for Publication)

v.

Sandra Kay Hill

The judgment is affirmed.

Gilbert, P.J.

We concur: Coffee, J.

Perren, J.

B212804 People (Not for Publication)

v.

Enrique Avila

The judgment is affirmed.

Coffee, J.

We concur: Gilbert, P.J.

Perren, J.

DIVISION SIX (continued)

B213470 People (Not for Publication)

v.

Zamora

The clerk of superior court is directed to prepare and forward to the Department of Corrections a modified abstract of judgment reflecting the award to appellant of 587 days of presentence custody credit and 88 days of presentence good conduct credit. As so modified, the judgment is affirmed.

Yegan, J.

We concur: Gilbert, P.J.

Perren, J.

B214388 People (Not for Publication)

v. Boyd

The judgment is affirmed.

Perren, J.

We concur: Yegan, Acting P.J.

Coffee, J.

B215197 Santa Barbara County Child Welfare Services (Not for Publication)

v.

M.H.

A.L.

The order appealed from is affirmed.

Coffee, J.

We concur: Gilbert, P.J.

Perren, J.

DIVISION SIX (continued)

B212842 People (Not for Publication)

v. Hollis

The judgment is modified to reflect that the sentence imposed on count 6 (false imprisonment by violence or menace) is stayed pursuant to section 654. As modified, the judgment is affirmed. The trial court is directed to prepare a corrected abstract of judgment and to forward a certified copy to the Department of Corrections and Rehabilitation.

Yegan, Acting P.J.

We concur: Coffee, J. Perren, J.

B214451 Chapman, et al. (Not for Publication)

v.

Krutonog, et al.

The trial court's order dated January 23, 2009, granting a preliminary injunction, is reversed. On remand, the trial court shall enter a new and different order denying the preliminary injunction. The trial court's order denying Krutonog's motion to dismiss the Chapmans pursuant to Code of Civil Procedure section 425.16 is reversed, and the cause is remanded to the trial court with directions to enter a new and different order granting Krutonog's motion to dismiss. Appellants are awarded costs on appeal.

Bigelow, J. (Assigned)

We concur: Gilbert, P.J. Yegan, J.

DIVISION SIX (continued)

B217241 People (Not for Publication)

v.

Matthews

The judgment (order of commitment) is affirmed.

Coffee, J.

We concur: Gilbert, P.J.

Yegan, J.

DIVISION EIGHT

B218460 Los Angeles County, D.C.F.S. (Not for Publication)

v.

M.P.

The judgment (order) is affirmed.

Flier, Acting P.J.

We concur: Bigelow, J.

Lichtman, J. (Assigned)

B212229 Jeffrey L. Black, et al. (Not for Publication)

v.

California Department of Real Estate

The judgment is affirmed. Respondent DRE is to recover costs on appeal.

Flier, Acting P.J.

We concur: Bigelow, J.

Mohr, J. (Assigned)

DIVISION EIGHT (continued)

B216690 Los Angeles County, D.C.F.S. (Not for Publication)

v.

Landon V.,

In re Nathaniel V., a Person coming Under the Juvenile Court Law.

The orders are affirmed.

Rubin, Acting P.J.

We concur: Flier, J.

Bigelow, J.

B213002 People

v.

Richard Elijah Brown, Jr.,

Filed order modifying opinion. Petition for rehearing is denied. (No

change in the judgment)